

Statement of  
U.S. Representative Edward J. Markey (D-MA)  
Ranking Democrat, House Subcommittee on  
Telecommunications and the Internet  
Introduction of  
"Wireless 411 Consumer Privacy Act"  
November 18, 2003

Mr. Speaker, I am please to cosponsor and introduce the "Wireless 411 Consumer Privacy Act" today with Rep. Joe Pitts (R-PA). Mr. Speaker, wireless phone service has proven invaluable for the roughly 150 million consumers who today subscribe to such service. Clearly, millions of consumers find value in the mobile nature of such phones. Millions more have enjoyed the fruits of competition, which has resulted in lower prices and increased consumer choice. In short, the government-driven wireless policy of actively promoting competition has been fundamentally successful.

In addition to the benefits of competition, wireless consumers have also been the beneficiaries of a de facto privacy protection policy for their wireless phone numbers. Because wireless subscribers could not be reached through "information" – such as when callers dial 411 to request a phone number – it meant that consumers were largely able to control the dissemination of their contact information themselves. For many consumers, this made their wireless phone more valuable because when it rang, it was likely to be a call from someone to whom the subscriber had given their number.

According to press reports, the wireless industry is poised to change this privacy experience by implementing a national wireless directory assistance database. This will enable callers to 411 to receive a wireless subscriber's phone number, or be connected to a wireless subscriber – something which today is not possible. Undoubtedly, some consumers may find such a service useful. We believe however, that many more consumers will want to decide affirmatively themselves whether they want to retain their current "unlisted" status or instead wish to opt-in to such a directory assistance service. Moreover, consumers certainly should not have to pay to retain their current level of privacy protection in my view.

Right now it is unclear how the wireless companies will implement this new service. Millions of consumers could potentially find themselves answering the phone to receive calls from people they have not (or would not have) given their numbers or from whom they do not wish to receive calls.

The legislation we are offering today is very straightforward. It simply states that current wireless consumers must be accorded the right to decide whether they want to be part of

the directory assistance service. Wireless companies, in other words, need to ask consumers first and get their prior, affirmative approval before including them. No consumer should unwittingly find themselves part of a service they don't want and consumers should not have their current relationship with their wireless phone company turned upside down in privacy-invasive ways unless they give their permission to such a change up front.

New wireless consumers, or consumers who switch wireless companies, and who are starting new customer relationships with another wireless carrier must be given clear and conspicuous notice at the time of subscribing as to what the privacy policy of that carrier will be with respect to any wireless directory assistance service that company utilizes. Consumers in such circumstances must also be given the right to decline to be included in the wireless directory assistance service and our legislation stipulates that carriers must give consumers adequate notice and means to exercise such a choice.

Congress previously acted to protect the wireless location information of subscribers by enacting prohibitions on the disclosure of such sensitive information without the express prior authorization of the subscriber. We believe with our bill today that the public interest would be served by similarly enacting effective and industry-wide privacy protections for consumers with respect to wireless directory assistance service.

I look forward to working with Rep. Pitts, Telecommunications Chairman Fred Upton, Commerce Committee Ranking Member Mr. Dingell, and our other colleagues on this issue in the next session of Congress. I yield back the balance of my time.

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